REMARKS/ARGUMENTS

Claims 1–19 are pending in the application. The Office Action objected to the specification due to a typographical error in a reference number. The Office Action also rejected Claims 1–19 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In addition, the Office Action rejected Claims 1–19 under 35 U.S.C. § 103(a) as being unpatentable over EP 0981252 A2 to Dolan ("Dolan") in view of U.S. Pat. No. 6,226,533 to Akahane ("Ahakane") and U.S. Publication No. 2005/0180392 to Watkins ("Watkins").

In view of the Amendments and Remarks set forth herein, Applicant respectfully submits that the application is in condition for allowance.

Objection to the Specification

The Office Action objected to the specification because "loop 74" was incorrectly referenced and should have read "loop 76" in accordance with Fig. 2. As noted in the amendments to the specification described above, "loop 74" has been amended to read "loop 76," as suggested in the Office Action. Accordingly, the objection to the specification is overcome.

Rejection of the Claims Under 35 U.S.C. § 112, Second Paragraph

The Office Action also rejected Claims 1–19 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, independent Claims 1, 10, and 18 include the language "such as SAM messages." Applicant has amended Claims 1, 10, and 18 to delete the objectionable language. In addition, new Claim 20 has been added to the application, which depends from Claim 1 and recites a terminal wherein the recorded audio data packages are SAM messages. As new Claim 20 includes subject matter that was formerly in Claim 1, no new matter has been introduced into the application. Furthermore, Claims 2, 6, 11, 13, and 15 have been amended to clarify the wording of the claims.

Claim 3 was also rejected under 35 U.S.C. § 112 due to the recitation of "said predetermined length," which allegedly lacks antecedent basis. Claim 3 has been amended above to recite "said predefined length," for which antecedent basis is provided by Claim 1.

In view of the above amendments, the rejection of the claims under 35 U.S.C. § 112 is overcome.

Rejection of the Claims Under 35 U.S.C. § 103(a)

Claims 1–19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dolan in view of Akahane and further in view of Watkins. The cited references, taken alone or in combination, do not teach or suggest every element of independent Claims 1, 10, and 18. Therefore, Claims 1, 10, and 18, and the claims that depend therefrom, are patentable over Dolan, Akahane, and Watkins for at least the reasons described below.

Independent Claim 1 recites a terminal for concatenating recorded audio data packages each having a predefined length into an audio message of variable length. Each of the recorded audio data packages are forwarded from the terminal to a receiving terminal through an interconnecting telecommunication network. The terminal thus includes a user interface, a recorder, a concatenation unit, and a transmitter. The user interface is configured to display on a display a first counter counting the recorded length of audio data being recorded in an audio data package and a second counter counting the number of recorded audio data packages.

Independent Claim 10 recites a system for communicating concatenated recorded audio data packages each having a predefined length into an audio message of variable length. The system includes a transmitting terminal that is configured to generate the concatenated recorded audio data packages and to transmit each of the recorded audio data packages, a receiving terminal, and a telecommunication network. Independent Claim 18 similarly recites a method for concatenating recorded audio data packages each having a predefined length into an audio message of variable length.

Thus, the claimed invention concatenates the recorded audio data packages in an end user device (e.g., the terminal) such that a user is not limited to the finite maximum length of the

audio data package, but rather can record a message that is longer than the finite maximum length of the audio data package and transmit the message to another end user device.

Dolan discloses a system comprising a message center **106** and an end user device **120**. Dolan, Fig. 3. A voice signal is digitally transmitted to the message center **106** for storage and/or delivery to the end user device. Para. [0023]. In some cases, "a Short Message containing information [is] too long to be transmitted in a single message across the intervening network(s) between the Message Center and the end user's equipment." Thus, the information is formatted into one or more Short Messages by a Short Message Creation Function and optionally stored until such time the messages are delivered to the end user device. Para. [0045].

As acknowledged in the Office Action on page 4, Dolan does not teach or suggest a user interface configured to display on a display a first counter counting the recorded length of audio data being recorded in an audio data package or a second counter counting the number of recorded audio data packages, as recited in Claims 1 and 10. Similarly, Dolan does not teach or suggest displaying, when a first counter is smaller than said predefined length, said first counter and a second counter by means of a display on said transmitting terminal, said first counter counting the recorded length of audio data being recorded in an audio data package and said second counter counting the number of recorded audio data packages, as recited in Claim 18. The Office Action turns to Akahane and Watkins to cure the deficiencies of Dolan.

Akahane is directed to a message duration indicator apparatus that provides an indication to the user of the approaching end of the message period to stimulate the user to record a message in as short a time as possible. Akahane, Abstract. Akahane <u>does not</u> teach or suggest a user interface configured to display a first counter <u>on a display</u> counting the <u>recorded length</u> of audio data being recorded. Rather, Akahane specifically discloses a duration indicator "which is preferably a single LED," and in fact teaches away from providing an indicator in the form of a display, noting that "display of elapsed time or remaining time as numerals on a liquid crystal display, for example, could often be unsatisfactory." Col. 4, lines 50–51; col. 5, lines 7–9. Akahane further notes that "[u]nlike a lack luster grey number on a grey LCD which slowly increments, the indicator must grab the user's attention." Col. 4, lines 56–58.

Similarly, Watkins does not teach or suggest displaying a first counter and a second counter on a display. Watkins relates to a communications device that electronically processes data for representing characters of a text message. Watkins, Abstract. Data is compiled into one or more individual screens of displayable information, which are viewable by the user one at a time on a display output device **12**. Para. [0059].

Watkins does not provide the user with either (1) the recorded length of audio data being recorded in an audio data package (e.g., a first counter), or (2) the number of recorded audio data packages (e.g., a second counter). As an initial matter, Watkins does not consider audio data at all, but rather is directed solely to text messages. ("The device comprises [components] for enabling encoding of character information input by the user into text data for transmission across a network." Para. [0054].) ("The invention facilitates providing a user with the impression that there is no size restriction on text messages for sending through a short message service." Para. [0046].) Therefore, one skilled in the art would not consider combining Watkins, which deals with text, with either Akahane or Dolan, which deal with audio.

Even if, for the sake of argument, the invention described in Watkins were applicable to audio messages, Watkins <u>does not</u> provide any indication of the length of the data in a "package" or the number of "packages" in the context of a counter, as provided in the claimed invention. Watkins expressly describes that "[o]nce the user has entered the message, and decides to send it, an instruction is entered on the key input device **10** and an SMS sender . . . splits the message into the determined number of GSM, or UCS SMS messages to compile a SMS group **28** of messages, which are transmitted sequentially by an SMS output device **30** over the network." Para. [0063]. Thus, Watkins does not "count" the length of the message <u>as it is entered</u>, but rather processes the complete message (i.e., <u>after</u> the full message has been entered) in preparation for transmission (i.e., after the user "decides to send it"). Similarly, Watkins does not count how many SMS messages will be required to transmit the complete message <u>as the message is being entered</u>, but only <u>after</u> the user "has entered the message." In other words, any indication on the display output device **12** of Watkins is merely a statistical summary of the complete message after it has been processed for transmission.

Accordingly, none of the cited references, taken alone or in combination, teaches or suggests a user interface configured to display on a display a first counter counting the recorded length of audio data being recorded in an audio data package and a second counter counting the number of recorded audio data packages, as recited in Claims 1 and 10. In addition, none of the cited references, taken alone or in combination, teaches or suggests displaying, when a first counter is smaller than said predefined length, said first counter and a second counter by means of a display on said transmitting terminal, said first counter counting the recorded length of audio data being recorded in an audio data package and said second counter counting the number of recorded audio data packages, as recited in Claim 18. Therefore, for at least the reasons described above, independent Claims 1, 10, and 18, and the claims that depend therefrom, are patentable over the cited references.

CONCLUSION

In view of the remarks presented above, it is respectfully submitted that independent Claims 1, 10, and 18 and all the claims depending therefrom (*i.e.*, Claims 2–9, 11–17, and 19–20) are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. The Examiner is requested to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

The patentability of the independent claims has been argued as set forth above, and thus Applicant will not take this opportunity to argue the merits of the rejection with regard to specific dependent claims. However, Applicant does not concede that the dependent claims are not independently patentable and reserves the right to argue the patentability of dependent claims at a later date if necessary.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefor (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

Michele Glessner
Registration No. 58,713

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON November 20, 2009.